

**ERIC WEINER**, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

V.

**TIVITY HEALTH, INC., DONATO  
TRAMUTO, GLENN HARGREAVES, and  
ADAM HOLLAND**

Defendants.

Case No. 3:17-cv-01469

Chief Judge Waverly D. Crenshaw, Jr.

Magistrate Judge Alistair Newbern

## **STIPULATION AND ORDER**

WHEREAS, on November 20, 2017, Plaintiff filed a class action complaint asserting claims against Defendants Tivity Health Inc. (“Tivity”), Donato Tramuto, Glenn Hargreaves, and Adam Holland pursuant to Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder;

WHEREAS, counsel for Defendants have agreed to accept Service of Summons for all Defendants and the deadline to respond has not yet passed;

WHEREAS, pursuant to Federal Rules of Civil Procedure 4 and 12, the time for Defendants to answer, move or otherwise respond to Plaintiff's Complaint has not yet passed;

WHEREAS, this case is governed by the Private Securities Litigation Reform Act of 1995 (the “Reform Act”), 15 U.S.C. § 78u-4, *et seq.*;

WHEREAS, pursuant to the Reform Act, 15 U.S.C. § 78u-4(a)(3)(A)(i)(II) and based on publication notice, the deadline for any Tivity shareholder to move to be appointed Lead Plaintiff in this action is January 19, 2018 and such Lead Plaintiff has not yet been appointed;

WHEREAS, the parties anticipate that, following the Court's appointment of Lead Plaintiff and Lead Plaintiff's Counsel in this action pursuant to the Reform Act, 15 U.S.C. § 78u-4(a)(3)(B)(i), Lead Plaintiff will file an amended complaint, which will operate as the operative complaint in this action;

WHEREAS, the parties have agreed that Defendants shall not be obligated to answer, move or otherwise respond to the Complaint in this action until a Lead Plaintiff is appointed and the parties have entered into a proposed schedule regarding the filing of an amended complaint and the response thereto;

WHEREAS, this is the first application to extend the time for the Defendants to answer, move or otherwise respond that has been made in this case; and

WHEREAS, the establishment of a schedule for the filing of certain pleadings, pretrial motions, and related matters will promote the efficient conduct of this litigation;

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for Plaintiff and the attorneys for Defendants, as follows:

1. Because this case is governed by the Reform Act, Defendants shall not be obligated to answer, move or otherwise respond to the Complaint [ECF No. 1].
2. Within five (5) business days after appointment of Lead Plaintiff in this action or in the consolidated action, as applicable, pursuant to the Reform Act, the parties shall file a proposed schedule regarding the filing of an amended complaint and the response thereto.
3. Nothing herein shall constitute a waiver or abrogation of, or in any other manner prejudice, any defenses that might be raised by Defendants.

Respectfully submitted this 18th day of December, 2017. The Filing User hereby represents that all signatories hereto consent to the filing of this document.

/s/ Al Holifield

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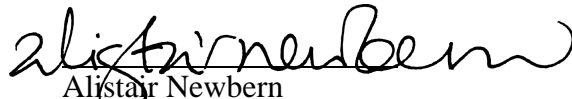
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*Attorneys for Defendants*

SO ORDERED.

Dated: December 19, 2017

  
Alistair Newbern  
United States Magistrate Judge

### **CERTIFICATE OF SERVICE**

I hereby certify that on December 18, 2017, the foregoing STIPULATION AND PROPOSED ORDER was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

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